

§ 560.417

§ 560.417 Facilitation; change of policies and procedures; referral of business opportunities offshore.

With respect to § 560.208, a prohibited facilitation or approval of a transaction by a foreign person occurs, among other instances, when a United States person:

(a) Alters its operating policies or procedures, or those of a foreign affiliate, to permit a foreign affiliate to accept or perform a specific contract, engagement or transaction involving Iran or the Government of Iran without the approval of the United States person, where such transaction previously required approval by the United States person and such transaction by the foreign affiliate would be prohibited by this part if performed directly by a United States person or from the United States;

(b) Refers to a foreign person purchase orders, requests for bids, or similar business opportunities involving Iran or the Government of Iran to which the United States person could not directly respond as a result of the prohibitions contained in this part; or

(c) Changes the operating policies and procedures of a particular affiliate with the specific purpose of facilitating transactions that would be prohibited by this part if performed by a United States person or from the United States.

§ 560.418 Release of technology or software in the United States or a third country.

The release of technology or software in the United States, or by a United States person wherever located, to any person violates the prohibitions of this part if made with knowledge or reason to know the technology is intended for Iran or the Government of Iran, unless that technology or software meets the definition of information and informational materials in § 560.315.

NOTE 1 TO § 560.418: The release of technology or software in the United States, or the release of U.S. origin technology or software in a third country, to a foreign national may require a license from the U.S. Department of Commerce's Bureau of Industry and Security under the Export Administration Regulations, 15 CFR parts 730 through 774 (the "EAR"). The EAR require a license for

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such release if both of the following conditions are met:

(a) That technology or software would require a license for exportation (or reexportation) to the home country of the foreign national; and

(b) The foreign national is not a citizen or permanent resident of the United States (or of the third country) or is not a protected individual under the Immigration and Naturalization Act (8 U.S.C. Sec. 1324(b)(a)(3)). *See* 15 CFR 734.2(b)(2)(ii) and 734.2(b)(5).

NOTE 2 TO § 560.418: The transfer to a foreign national of technology subject to regulations administered by the U.S. Department of State or other agencies of the U.S. Government may require authorization by those agencies.

§ 560.419 U.S. employment of persons ordinarily resident in Iran.

The prohibitions in § 560.201 make it unlawful to hire an Iranian national ordinarily resident in Iran to come to the United States solely or for the principal purpose of engaging in employment on behalf of an entity in Iran or as the employee of a U.S. person, unless authorized pursuant to § 560.505. *See also* § 560.418 with respect to the release of technology and software.

§ 560.420 Reexportation by non-U.S. persons of certain foreign-made products containing U.S.-origin goods or technology.

For purposes of satisfying the de minimis content rule in § 560.205(b)(2):

(a) U.S.-origin goods (excluding software) falling within the definition in § 560.205 must comprise less than 10 percent of the total value of the foreign-made good (excluding software);

(b) U.S.-origin software falling within the definition in § 560.205 must comprise less than 10 percent of the total value of the foreign-made software;

(c) U.S.-origin technology falling within the definition in § 560.205 must comprise less than 10 percent of the total value of the foreign-made technology; and,

(d) In cases involving a complex product made of a combination of U.S.-origin goods (including software) and technology falling within the definition in § 560.205, the aggregate value of all such U.S.-origin goods (including software) and such technology contained in the foreign-made product must be less than 10 percent of the